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EXAMINER

BRAHAN, THOMAS J

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 08/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/768,310

Applicant(s)

DUPUY ET AL.

Examiner

Thomas J. Brahan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 16-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-23 and 26-33 is/are rejected.
- 7) ☒ Claim(s) 24, 25, 34 and 35 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

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1. The supplemental reply filed on April 1, 2005 was not entered because supplemental replies are no longer entered as a matter of right except as provided in 37 CFR 1.111(a)(2)(ii). The supplemental amendment was not entered as it is clearly not limited to placement of the applicant in condition for allowance or is not responsive to an additional requirement made by the office. As this action is not being made final, applicant may submit a similar amendment in response to this action.

2. Applicant's Terminal Disclaimer filed February 22, 2005 has been approved.

3. The previous indication of claim 18 as allowable, as it was only included in the double patenting rejection, is withdrawn in view of the newly discovered references to Niccoli. A rejection based on the newly cited reference is included with the rejections which follow.

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). The language of the amended claims, such as the first linkage and the second linkage, does not correspond to the terminology of the specification. The Appropriate correction is required. No new matter may be entered.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirement of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

6. Claims 16, 17, 20, 22 and 28-30 are rejected under 35 U.S.C. § 102(e) as being anticipated by Ringdahl et al, US Patent No. 6,053,693. Ringdahl et al shows a wheelchair lift comprising:

a platform (1) for carrying a passenger;

a lifting mechanism (motor 64, lever arm 80 and ear 88; see figure 13A) secured at one end to a vehicle and at the other end to the platform adjacent to an inboard end of the platform for moving the platform between a ground level position, a transfer level position and a vertically stowed position;

a plate (barrier 16) pivotally connected to the inboard end of the platform and moveable between a raised barrier position and a lowered bridging position;

a first linkage (pivot arms 84 and 92, slide shoe 102 and the two links extending from the slide shoe) cooperating with the lifting mechanism (at 80 and 88) and coupled to the platform for moving the platform from the transfer level position to the vertically stowed position; and

a second linkage (120, 124 130) coupled to the plate (16) and directly connected to the first linkage (at 92) for moving the plate between the raised barrier position and the lowered bridging position.

Lever arm (80) and ear (88) form a parallelogram structure, as recited in claim 17. The first linkage comprises arms (84 and the links extending from slide shoe 102) having different lengths as to have a pair of arms of

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unequal lengths, as recited in claim 20. The first linkage has a first arm (84 or 92) extending from the lifting mechanism and a second arm (the lower link of the slide shoe 102) extending from the platform, as recited in claim 22. Movement of the lifting mechanism acts on the first linkage during raising and lowering of the barrier (16), as recited in claims 28 and 30, through the second linkage, as recited in claim 29.

7. Claims 16, 17, 20, 22 and 27-30 are rejected under 35 U.S.C. § 102(b) as being anticipated by Saucier et al, US Patent No. 5,605,431 (cited by applicant). Saucier et al shows a wheelchair lift comprising:

- a platform (12) for carrying a passenger;

- a lifting mechanism (one hydraulic cylinder 38, and its links 22 and 24) secured at one end to a vehicle and at the other end to the platform (12) adjacent to an inboard end of the platform for moving the platform between a ground level position, a transfer level position and a vertically stowed position;

- a plate (34) pivotally connected to the inboard end of the platform and moveable between a raised barrier position and a lowered bridging position;

- a first linkage (the other link 22, the other link 24, the cam 35 and pivot bars 52 and 54 associated with these two links) cooperating with the lifting mechanism (the elements listed above; note that the term *cooperating* is broad) and coupled to the platform (12) for moving the platform from the transfer level position to the vertically stowed position; and

- a second linkage (cable 150) coupled to the plate (34) and directly connected to the first linkage for moving the plate between the raised barrier position and the lowered bridging position.

The lifting mechanism comprises a parallelogram structure (22 and 24), as recited in claim 17. The first linkage comprises arms (35 and 22) of different lengths, as recited in claim 20. The second linkage (the torsion spring) is an actuator link pivotally attached to a longer arm (118) of the first linkage, as recited at the end of claim 19. Various parts of the first linkage, such as chain (114) can be considered as a first arm extending from the lifting mechanism with link (94) as the second arm extending from the platform (50') as recited in claim 22. Movement of the lifting mechanism causes the plate (116) to move, through moving the first linkage, as recited in claims 27-30.

8. Claims 16, 19, 20, 22 and 27-30 are rejected under 35 U.S.C. § 102(b) as being anticipated by Dudynskyj, US Patent No. 4,124,199. Figures 6 and 7 of Dudynskyj show a wheelchair lift comprising:

- a platform (riser member labeled 50' in figure 6 and 50 in figure 7) for carrying a passenger;

- a lifting mechanism (motor 84', shaft 104, endless chain 102 and related connections) secured at one end to a vehicle and at the other end to the platform adjacent to an inboard end of the platform for moving the platform between a ground level position (the lower position shown in broken lines in figures 6 and 7), a transfer level position (the upper position shown in broken lines in figure 6) and a vertically stowed position (in which the lift assumes the steps orientation shown in solid lines in figure 7);

- a plate (116) pivotally connected (indirectly) to the inboard end of the platform and moveable between a raised barrier position (shown in solid lines in figure 7) and a lowered bridging position (shown in broken lines in figure 6);

- a first linkage (endless chain 114 and the links supporting all the steps) cooperating with the lifting mechanism (84' and 102) and coupled to the platform (50') for moving the platform from the transfer level position to the vertically stowed position; and

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a second linkage (link 40' and /or the torsion spring disclosed in the last line of column 6) coupled to the plate (116) and directly connected to the first linkage (at 118) for moving the plate between the raised barrier position and the lowered bridging position.

The first linkage comprises various arms of all different lengths as to have a pair of arms of unequal lengths, as recited in the beginning of claim 19 and in claim 20. The second linkage (the torsion spring) is an actuator link pivotally attached to a longer arm (118) of the first linkage, as recited at the end of claim 19. Various parts of the first linkage, such as chain (114) can be considered as a first arm extending from the lifting mechanism with link (94) as the second arm extending from the platform (50') as recited in claim 22. Movement of the lifting mechanism causes the plate (116) to move, through moving the first linkage, as recited in claims 27-30.

9. Claims 16-23, 26, 27, and 31-33 are rejected under 35 U.S.C. § 102(b) as being anticipated by Niccoli, DE 33 43 724. Using the language of claim 31, Niccoli shows a wheelchair lift comprising:

- a platform (50) for carrying a passenger;

- a lifting mechanism (cylinder 80) secured at one end to a vehicle and at the other end to the platform adjacent to an inboard end of the platform for moving the platform between a ground level position (see figure 1), a transfer level position (the levels between the uppermost and the ground position) and a vertically stowed position (in Figure 2; note that the claim does not specify that the lifting mechanism pivots the platform, only that it moves it to a third position, or height, at which it is pivoted to the stored position);

- a plate (48) pivotally connected (indirectly) to the inboard end of the platform and moveable between a raised barrier position (shown in figures 1 and 3; note that no function is related specifically in the claims to the barrier position other than being a raised position) and a lowered bridging position (shown in figure 2; note no function is related specifically in the claims to the lower bridging position); and

- a linkage (14, 16, 28, 58 and others) coupled to the plate (48) for moving the plate between the raised barrier position and the lowered bridging position, the linkage cooperating with the lifting mechanism (note the term cooperating is broad) and coupled to the platform for moving the platform from the transfer level position to the vertically stowed position (height), wherein the linkage comprises a telescopic member (28).


The linkage comprises a first linkage (28, 72 and other links) cooperating with the lifting mechanism and coupled to the platform (50) for moving the platform from the transfer level position to the vertically stowed position; and a second linkage (58) coupled to the plate (48) and directly connected to the first linkage for moving the plate (48) between the raised barrier position and the lowered bridging position, as recited in claim 16. The lifting mechanism comprises a parallelogram structure (16 and 14), as recited in claim 17. The first linkage is a telescopic member (28) with arms of different lengths, as recited in claims 18-21. The outer of the telescopic arms extends from the lifting mechanism and the outer telescopic arm extends to the platform, as recited in claims 22 and 32. Both arms are telescopic members, as broadly recited in claims 23 and 33. Pivoting contact between the first linkage (28) and the parallelogram structure (14 and 16) causes the first linkage to move inwardly and the plate (48) to move to the lowered position, as recited in claim 26. As the lifting mechanism moves with the first linkage, its relative movement raise and lowers the plate (48), recited in claim 27.

10. Claims 24, 25, 34 and 35 are objected as depending from rejected claims and would be allowable if rewritten in independent form including all of the limitations of the base claims and the intervening claims.

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11. Applicant's remarks in the amendment filed February 22, 2005, state that the amended claims call for a first linkage for cooperating with a lifting mechanism and a second linkage directly connected to first linkage. However the term "linkage" is broad and is defined as "a system of interconnected machine elements, such as rods, springs and pivots, used to transmit power or motion" see [www.dictionary.com](http://www.dictionary.com). When considering the claims, the various elements of the references can be grouped into two different linkages in a multitude of manners. In a similar manner, the term "mechanism" is defined as "an arrangement of connected parts in a machine", as to have the claimed lifting mechanism being considered as various groupings of the elements. Any element or group of the elements in the references which has one end attached to the vehicle and the other end attached to the platform which is used for lifting the platform can be considered as the claimed lifting mechanism. The late inclusion of rejections based on the newly found reference of Niccoli is regretted.

12. An inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Brahan whose telephone number is (571) 272-6921. The examiner's supervisor, Ms. Eileen Lillis, can be reached at (571) 272-6928. The fax number for all patent applications is (703) 872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Questions regarding access to the Private PAIR system, should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Thomas J. Brahan  
Primary Examiner  
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